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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Criminal No: 16-cr-20293

v.

Honorable: David M. Lawson

D-1 MARC EDWARD SCHOLTZ
D-2 TYRONE SAMUEL SMITH, Jr.,

Violations:

Defendants

21 U.S.C. § 846
21 U.S.C. § 841(a)(1)
21 U.S.C. § 841(b)(1)(B)
21 U.S.C. § 841(b)(1)(C)
18 U.S.C. § 2

FIRST SUPERSEDING INDICTMENT

THE GRAND JURY CHARGES:

COUNT ONE

21 U.S.C. §§ 841(a)(1), 841(b)(1)(C) -
Distribution of a Controlled Substance, Fentanyl and Acetyl Fentanyl

D-1 MARC EDWARD SCHOLTZ

That on or about March 10, 2016, in the Eastern District of Michigan, Southern Division, MARC EDWARD SCHOLTZ, defendant herein, did knowingly, intentionally and unlawfully distribute a controlled substance, to wit: fentanyl, a Schedule II Controlled Substance, and acetyl fentanyl, a Schedule I

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Controlled Substance.

All in violation of Title 21, United States Code, Section 841(a)(1) and 841(b)(1)(C).

COUNT TWO

21 U.S.C. §§ 841(a)(1), 841(b)(1)(C) -
Distribution of a Controlled Substance, Fentanyl and Acetyl Fentanyl
18 U.S.C. § 2 - *Aiding and Abetting*

D-1 MARC EDWARD SCHOLTZ

D-2 TYRONE SAMUEL SMITH, Jr.

That on or about March 16, 2016, in the Eastern District of Michigan, Southern Division, the defendants, MARC EDWARD SCHOLTZ and TYRONE SAMUEL SMITH, Jr., did knowingly and intentionally aid and abet one another to distribute a controlled substance, to wit: fentanyl, a Schedule II Controlled Substance, and acetyl fentanyl, a Schedule I Controlled Substance.

All in violation of Title 21, United States Code, Section 841(a)(1), 841(b)(1)(C) and Title 18, United States Code, Section 2.

COUNT THREE

21 U.S.C. §§ 841(a)(1), 841(b)(1)(C) -
Distribution of a Controlled Substance, Fentanyl and Acetyl Fentanyl

D-1 MARC EDWARD SCHOLTZ

That on or about March 29, 2016, in the Eastern District of Michigan, Southern Division, MARC EDWARD SCHOLTZ, defendant herein, did knowingly, intentionally and unlawfully distribute a controlled substance, to wit: fentanyl, a Schedule II Controlled Substance, and acetyl fentanyl, a Schedule I Controlled Substance.

All in violation of Title 21, United States Code, Section 841(a)(1) and 841(b)(1)(C).

COUNT FOUR

21 U.S.C. §§ 841(a)(1), 841(b)(1)(C) -
Possession with Intent to Distribute a Controlled Substance, Fentanyl and Acetyl Fentanyl

D-1 MARC EDWARD SCHOLTZ

That on or about April 12, 2016, in the Eastern District of Michigan, Southern Division, MARC EDWARD SCHOLTZ, defendant herein, did knowingly, intentionally and unlawfully possess with the intent to distribute a controlled substance, to wit: fentanyl, a Schedule II Controlled Substance and acetyl fentanyl, a Schedule I Controlled Substance.

All in violation of Title 21, United States Code, Section 841(a)(1) and 841(b)(1)(C).

COUNT FIVE

21 U.S.C. §§ 846, 841(a)(1), 841(b)(1)(B), and 841(b)(1)(C) -
Conspiracy to Distribute Controlled Substances

D-1 MARC EDWARD SCHOLTZ

D-2 TYRONE SAMUEL SMITH, Jr.

From on or before January 2015, through on or about April 2016, in the Eastern District of Michigan, Southern Division, and elsewhere, the defendants, MARC EDWARD SCHOLTZ and TYRONE SAMUEL SMITH, Jr., did knowingly and intentionally combine, conspire, confederate, and agree with each other and with other individuals, known and unknown to the Grand Jury, to distribute controlled substances, that is:

- a) 100 grams or more of a mixture and substance containing a detectable amount of heroin; and
- b) Fentanyl, a Schedule II Controlled Substance; and
- c) Acetyl Fentanyl, a Schedule I Controlled Substance.

All in violation of Title 21, United States Code, Section 841(a)(1), Section 841(b)(1)(B), 841(b)(1)(C) and Section 846.

COUNT SIX

21 U.S.C. §§ 841(a)(1), 841(b)(1)(C) -
Distribution of a Controlled Substance, Fentanyl and Acetyl Fentanyl

D-1 MARC EDWARD SCHOLTZ

That on or about March 22, 2016, in the Eastern District of Michigan, Southern Division, MARC EDWARD SCHOLTZ, defendant herein, did knowingly, intentionally and unlawfully distribute a controlled substance, to wit: fentanyl, a Schedule II Controlled Substance, and acetyl fentanyl, a Schedule I Controlled Substance.

All in violation of Title 21, United States Code, Section 841(a)(1) and 841(b)(1)(C).

COUNT SEVEN

21 U.S.C. §§ 841(a)(1), 841(b)(1)(C) -
Distribution of a Controlled Substance, Fentanyl and Acetyl Fentanyl

D-2 TYRONE SAMUEL SMITH, Jr.

That on or about March 24, 2016, in the Eastern District of Michigan, Southern Division, TYRONE SAMUEL SMITH, Jr., defendant herein, did knowingly, intentionally and unlawfully distribute a controlled substance, to wit: fentanyl, a Schedule II Controlled Substance, and acetyl fentanyl, a Schedule I Controlled Substance.

All in violation of Title 21, United States Code, Section 841(a)(1) and 841(b)(1)(C).

COUNT EIGHT

21 U.S.C. §§ 841(a)(1), 841(b)(1)(C) -
Distribution of a Controlled Substance, Fentanyl and Acetyl Fentanyl

D-2 TYRONE SAMUEL SMITH, Jr.

That on or about March 29, 2016, in the Eastern District of Michigan, Southern Division, TYRONE SAMUEL SMITH, Jr., defendant herein, did knowingly, intentionally and unlawfully distribute a controlled substance, to wit: fentanyl, a Schedule II Controlled Substance, and acetyl fentanyl, a Schedule I Controlled Substance.

All in violation of Title 21, United States Code, Section 841(a)(1) and 841(b)(1)(C).

COUNT NINE

21 U.S.C. §§ 841(a)(1), 841(b)(1)(C) -
Distribution of a Controlled Substance Resulting in Death or Serious Bodily Injury

D-2 TYRONE SAMUEL SMITH, Jr.

That on or about June 2015, in the Eastern District of Michigan, Southern Division, TYRONE SAMUEL SMITH, JR., defendant herein, did knowingly, intentionally and unlawfully distribute a controlled substance, to wit: fentanyl, a Schedule II Controlled Substance, and acetyl fentanyl, a Schedule I Controlled Substance, which distribution resulted in serious bodily injury of another person,

A.D., from the use of such substance.

All in violation of Title 21, United States Code, Section 841(a)(1) and 841(b)(1)(C).

COUNT TEN

21 U.S.C. §§ 841(a)(1), 841(b)(1)(C) -
Distribution of a Controlled Substance Resulting in Death or Serious Bodily Injury

D-2 TYRONE SAMUEL SMITH, Jr.

That on or about June 26, 2015, in the Eastern District of Michigan, Southern Division, TYRONE SAMUEL SMITH, JR., defendant herein, did knowingly, intentionally and unlawfully distribute a controlled substance, to wit: fentanyl, a Schedule II Controlled Substance, and acetyl fentanyl, a Schedule I Controlled Substance, which distribution resulted in serious bodily injury of another person, M.C., from the use of such substance.

All in violation of Title 21, United States Code, Section 841(a)(1) and 841(b)(1)(C).

COUNT ELEVEN

21 U.S.C. §§ 841(a)(1), 841(b)(1)(C) -
Distribution of a Controlled Substance Resulting in Death or Serious Bodily Injury

D-2 TYRONE SAMUEL SMITH, Jr.

That on or about January 2016 through on or about February 2016, in the Eastern District of Michigan, Southern Division, TYRONE SAMUEL SMITH, JR., defendant herein, did knowingly, intentionally and unlawfully distribute a controlled substance, to wit: a mixture or substance containing a detectable amount of heroin, a Schedule I Substance, fentanyl, a Schedule II Controlled Substance, and acetyl fentanyl, a Schedule I Controlled Substance, which distribution resulted in serious bodily injury of another person, J.R., from the use of such substance.

All in violation of Title 21, United States Code, Section 841(a)(1) and 841(b)(1)(C).

COUNT TWELVE

21 U.S.C. §§ 841(a)(1), 841(b)(1)(C) -

Distribution of a Controlled Substance Resulting in Death or Serious Bodily Injury

D-1 MARC EDWARD SCHOLTZ

That on or about March 19, 2016 through March 21, 2016, in the Eastern District of Michigan, Southern Division, MARC EDWARD SCHOLTZ, defendant herein, did knowingly, intentionally and unlawfully distribute a controlled substance, to wit: a mixture or substance containing a detectable amount of heroin, a Schedule I Substance, fentanyl, a Schedule II Controlled Substance, and acetyl fentanyl, a Schedule I Controlled Substance, which distribution resulted in the death of another person, M.L., from the use of such substance.

All in violation of Title 21, United States Code, Section 841(a)(1) and 841(b)(1)(C).

COUNT THIRTEEN

21 U.S.C. § 843(b) –

Unlawful Use of a Communication Facility to Commit a Drug Trafficking Offense

D-1 MARC EDWARD SCHOLTZ

From on or before January 2015, through on or about April 2016, in the Eastern District of Michigan, Southern Division, MARC EDWARD SCHOLTZ, the defendant herein, did unlawfully use a telephone, a communication facility, to commit an act or acts constituting a felony, to wit, conspiracy to possess with intent to distribute and to distribute controlled substances, contrary to the provisions of Title 21, United States Code, Sections 841(a)(1) and 846.

All in violation of Title 21, United States Code, Section 843(b).

COUNT FOURTEEN

21 U.S.C. § 843(b) –

Unlawful Use of a Communication Facility to Commit a Drug Trafficking Offense

D-2 TYRONE SAMUEL SMITH, Jr.

From on or before January 2015, through on or about April 2016, in the Eastern District of Michigan, Southern Division, TYRONE EDWARD SMITH,

Jr., the defendant herein, did unlawfully use a telephone, a communication facility, to commit an act or acts constituting a felony, to wit, conspiracy to possess with intent to distribute and to distribute controlled substances, contrary to the provisions of Title 21, United States Code, Sections 841(a)(1) and 846.

All in violation of Title 21, United States Code, Section 843(b).

FORFEITURE ALLEGATIONS

21 U.S.C. § 853, 18 U.S.C. § 982(a) – CRIMINAL FORFEITURE

1. The allegations set forth above in this Indictment are hereby incorporated by reference as if they were set forth in full herein for the purpose of alleging forfeiture against each of the defendants pursuant to Title 21, United States Code, Section 853 and Title 18, United States Code, Section 982(a).

2. Pursuant to Title 21, United States Code, Section 853(a), upon conviction of any of the controlled substance offenses in violation of Title 21, as alleged in this Indictment, the convicted defendant(s) shall forfeit to the United States: (a) any property, real or personal, constituting or derived from any proceeds obtained, directly or indirectly, as a result of such violation; and (b) any property, real or personal, used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of such violation(s).

3. Upon conviction of violating Title 18, United States Code, Section

1956(h), as alleged in this Indictment, the convicted defendant(s) shall forfeit to the United States: (a) any property, real or personal, involved in such offense, or any property traceable to such property, and (b) any property, real or personal, which constitutes or is derived from proceeds traceable to such offense, pursuant to Title 18, United States Code, Section 982(a)(1).

4. **Substitute Assets:** If the property described above as being subject to forfeiture, as a result of any act of a defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property that cannot be divided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. Section 853(p) as incorporated by 18 U.S.C. Section 982(b), to seek to forfeit any property of such defendant up to the value of the forfeitable property described above.

5. **Money Judgment:** Upon conviction of one or more violations alleged in this Indictment, the United States will seek a forfeiture money judgment against the convicted defendants in an amount representing the total amount of proceeds obtained as a result of the aforementioned offenses, and/or the total amount

involved in the violations of Title 21, United States Code, Sections 841 and 846, and Title 18, United States Code, Section 1956(h), for which the convicted defendants shall be jointly and severally liable.

THIS IS A TRUE BILL

/s/ Grand Jury Foreperson
GRAND JURY FOREPERSON

BARBARA L. MCQUADE
United States Attorney
/s/ Rajesh Prasad
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Dated: July 28, 2016

ORIGINAL

United States District Court Eastern District of Michigan	Criminal Case Cover Sheet	Case Number 16-cr-20293
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NOTE: It is the responsibility of the Assistant U.S. Attorney signing this form to complete it accurately in all respects.

Companion Case Information	Companion Case Number:
This may be a companion case based upon LCrR 57.10 (b)(4) ¹ :	Judge Assigned:
<input type="checkbox"/> Yes <input type="checkbox"/> No	AUSA's Initials:

Case Title: USA v. Marc Edward Scholtz and Tyrone Samuel Smith, Jr.County where offense occurred : WayneCheck One: ☒ Felony ☐ Misdemeanor☐ Indictment/ ☐ Information --- no prior complaint.☐ Indictment/ ☐ Information --- based upon prior complaint [Case number:]☒ Indictment/ ☐ Information --- based upon LCrR 57.10 (d) [Complete Superseding section below]

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Superseding Case InformationSuperseding to Case No: 16-cr-20293 Judge: David M. Lawson

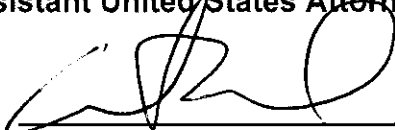
- ☐ Corrects errors; no additional charges or defendants.
☐ Involves, for plea purposes, different charges or adds counts.
☒ Embraces same subject matter but adds the additional defendants or charges below:

<u>Defendant name</u>	<u>Charges</u>	<u>Prior Complaint (if applicable)</u>
Tyrone Samuel Smith, Jr.	21 U.S.C. §§ 841(a)(1), 841(b)(1)(B), 841(b)(1)(C) 21 U.S.C. § 846 21 U.S.C. § 843(b)	

Please take notice that the below listed Assistant United States Attorney is the attorney of record for the above captioned case.

July 28, 2016

Date


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¹ Companion cases are matters in which it appears that (1) substantially similar evidence will be offered at trial, or (2) the same or related parties are present, and the cases arise out of the same transaction or occurrence. Cases may be companion cases even though one of them may have already been terminated.